

IC 34-55-4

Chapter 4. Appraisement

IC 34-55-4-1

Sales for less than two-thirds appraised value prohibited

Sec. 1. Property shall not be sold on any execution or order of sale issued out of any court for less than two-thirds (2/3) of the appraised cash value of the property, exclusive of liens and encumbrances, except where otherwise provided by law.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-2

Sheriff to ascertain cash value

Sec. 2. The sheriff, immediately upon levying an execution, shall proceed to ascertain the cash value of the property levied upon.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-3

Appraisers; selection; duties

Sec. 3. (a) For the purpose of appraising the cash value of property:

(1) two (2) disinterested householders of the neighborhood where the levy is made shall be selected as appraisers, one (1) of whom shall be selected by each of the parties or their agents; or

(2) in the absence of either party or the party's agent, or upon the failure or refusal of either party after three (3) days notice by the sheriff, to make the selection, the sheriff shall proceed to select the appraisers.

(b) The appraisers shall immediately proceed to appraise the property according to its cash value at the time, deducting liens and encumbrances. In case of their disagreement as to the value, the sheriff shall select a like disinterested appraiser, and, with the disinterested appraiser's assistance, shall complete the valuation. The appraisement of any two (2) of them shall be considered the cash value.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-4

Failure of appraiser to act; successor

Sec. 4. If an appraiser fails to act or to complete the valuation, another appraiser shall be chosen, as provided in this chapter.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-5

Lists of liens and encumbrances

Sec. 5. It is not the duty of the sheriff or the appraisers to ascertain the amount of liens and encumbrances. However, either party may furnish the sheriff with a list of liens and encumbrances, with the amount and nature of each.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-6

Schedule of property levied on

Sec. 6. The sheriff shall furnish the appraisers a schedule of the property levied on, with the encumbrances made known to the sheriff. The appraisers shall proceed to fix and set down opposite to each tract, lot, or parcel of real estate, and of the several articles of personal property, the cash value, deducting liens and encumbrances. The appraisers shall return the schedule to the sheriff.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-7

Oath of appraisers

Sec. 7. (a) The appraisers shall take and subscribe an oath, annexed to the appraisal, to the effect that:

- (1) the property mentioned in the schedule is, to the best of their judgment, worth the sums specified in the appraisal; and
- (2) the appraisal is the fair cash value of the property at the time, exclusive of liens and encumbrances.

(b) The sheriff may administer and attest the oath described in subsection (a).

As added by P.L.1-1998, SEC.51.

IC 34-55-4-8

Purchaser's rights regarding encumbered property

Sec. 8. (a) Subject to subsection (b), where any property is sold subject to liens and encumbrances, the purchaser may:

- (1) pay the liens and encumbrances and hold the property discharged from all claims of the execution defendant; or
- (2) hold the property subject to be redeemed by the execution defendant, or the execution defendant's heirs, or assigns, by paying to the purchaser, or the purchaser's heirs or assigns, the purchase money, with interest.

When redeemed, the purchaser shall have the growing crops and shall not be accountable for rents and profits, but the purchaser shall account for waste.

(b) This section does not deprive a party from the right to redeem when authorized by statute.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-9

Unsold property; sheriff's duty

Sec. 9. When any property levied on remains unsold, the sheriff shall, when the sheriff returns the execution, return the appraisal with the execution, stating in the sheriff's return the failure to sell and the cause of the failure.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-10

Continuance of lien on unsold property

Sec. 10. (a) The lien of the levy upon the property shall continue, and the clerk, when directed by the plaintiff, shall immediately issue another execution:

- (1) reciting the return of the former execution and the levy and failure to sell; and
- (2) directing the sheriff to satisfy the judgment out of the unsold property, if the unsold property is sufficient.

(b) If the property is not sufficient, the sheriff shall satisfy the judgment out of any other property of the debtor subject to execution. However, the lien as to personal property continues only for thirty (30) days (unless a second execution is issued) from the time of the return. At that time, the property shall be released to bona fide purchasers for value and to the levies of writs on other judgments. The levy shall, as between the parties, be considered vacated. As to real property, the levy of the writ shall be discharged after six (6) months.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-11**Unsold property; revaluation and reoffer**

Sec. 11. Whenever any property levied upon remains unsold for want of buyers, the plaintiff may cause the property to be reoffered at any time before the return day of the execution, at the plaintiff's costs, as often as the plaintiff may direct. In case of the sale of the property, the costs of the offer and sale shall be taxed against the defendant. Either party may have a revaluation of the property, at that party's costs, after any offer to sell.

As added by P.L.1-1998, SEC.51.

IC 34-55-4-12**Fraudulent transfers or conveyances**

Sec. 12. Property conveyed by a debtor with intent to hinder, delay, or defraud creditors shall be sold without appraisement.

As added by P.L.1-1998, SEC.51.